

BOARD OF APPEALS CASE NO. 5176

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BEFORE THE

**APPLICANTS: APC Realty & Equipment LLC
Sprint PCS**

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ZONING HEARING EXAMINER

**REQUEST: Modification of Case No. 4969
to increase the existing tower from 135 feet to
160 feet; 3036 Churchville Road, Churchville**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 9/26/01 & 10/3/01

HEARING DATE: November 28, 2001

Record: 9/28/01 & 10/5/01

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ZONING HEARING EXAMINER'S DECISION

The Applicants, APC Realty & Equipment LLC and Sprint PCS, are requesting a modification of the special exception use granted pursuant to Board of Appeals Case No. 4969 to allow an increase in height for an existing 135 foot monopole tower (160 feet proposed) in an Agricultural District.

The subject parcel is located to the rear of 3036 Churchville Road and is more particularly identified on Tax Map 42, Grid 3F, Parcel 468. The subject parcel consists of 1.656± acres, is zoned AG/Agricultural and is entirely within the Third Election District.

Mr. Mark Dopkin appeared on behalf of the Applicants and testified that a 135 foot monopole communications tower was erected at the subject site pursuant to approval for special exception use granted in Board of Appeals Case No. 4969. The witness indicated that the Applicants intend to add another section to the existing pole that will bring the height to 160 feet. The witness explained that these towers are designed to have additions added to increase height. According to the testimony, increased height will provide increased coverage or service area. Based on computer modeling, a height of 160 feet will provide optimum coverage for this pole. Mr. Dopkin stated that the operating output of this pole is 100 watts and, allowable under Federal law for such a pole would be 1340 watts. All other FCC standards will be maintained.

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Mr. Vincent Bacchi appeared on behalf of the Applicant. Mr. Bacchi explained that his job is to locate appropriate sites for new towers or new transmission points. He always prefers to use an existing tower. This particular tower is going to be used by four separate companies – Sprint PCS, Voice Stream, Nextel (existing) and Cingular Wireless.

Glenn Reeder, Jr., a structural engineer, testified regarding the safety of the tower and proposed extension. There is a Grimmel Furniture Store and a driving range adjacent. The tower is located 300 feet from the Churchville Road (Rte. 22) right of way. There is an existing fence and access area which will be unaffected by the extension. Additional support equipment will be added at ground level to house Sprint's equipment.

Mr. Oakleigh J. Thorne appeared and qualified as a real estate appraiser. Mr. Thorne described his research and summarized his findings regarding the impact of communication towers on property values. Mr. Thorne concluded that communications towers in general and this one in particular have no discernible impact on property values of adjacent or nearby properties. In this case, the rolling topography of the area and tree lines prevent visibility of the tower for up to a mile.

The Department of Planning and Zoning concluded that the request resulted in no adverse impacts and recommended approval of the subject modification.

There were no protestants who appeared in opposition to this application.

CONCLUSION:

This special exception use was approved pursuant to Board of Appeals Case No. 4969 in November, 1999. Applying the standards provided by Harford County Code Section 267-53(I)(4), the Hearing Examiner in Case No. 4969 found that the tower as proposed met or exceeded all Code requirements, that no adverse impacts would result from its construction at the proposed site, that applying the provisions of Section 267-9I to the subject case did not indicate any adverse or unwanted conditions associated with the proposal and recommended approval.

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With the exception of the increased height of 25 feet (135 feet existing, 160 feet proposed), none of the other conditions of approval considered by the Hearing Examiner have changed since the 1999 approval. Since the approval granted in 1999, the Harford County Zoning Code has been amended and contains provisions that were not applicable at the time of the original application. However, the Applicant has demonstrated that it meets or exceeds all of the requirements of the current Code provisions pursuant to Section 267-53.5.

The Hearing Examiner recommends approval of the subject request subject to the following conditions:

1. The Applicant obtains any and all necessary permits and inspections.
2. At any time that the tower ceases to be used for wireless communication it shall be removed at the applicant's expense.

Date **DECEMBER 13, 2001**

William F. Casey
Zoning Hearing Examiner